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Short Title: Child Sex Abuse/Strengthen Laws.

(Public)

Sponsors:

Referred to:

March 7, 2019

A BILL TO BE ENTITLED  
AN ACT TO PROTECT CHILDREN FROM SEX ABUSE BY IMPROVING  
PROSECUTORIAL OPTIONS FOR DELAYED REPORTS OF CHILD ABUSE, TO  
EXPAND THE MANDATORY DUTY OF REPORTING CHILD ABUSE, AND TO  
PROTECT CHILDREN FROM ONLINE PREDATORS.

The General Assembly of North Carolina enacts:

**PART I. TITLE**

**SECTION 1.** This act shall be known and may be cited as "The Sexual Assault Fast Reporting and Enforcement (Safe Child) Act of 2019."

**PART II. EXPAND DUTY TO REPORT CRIMES AGAINST JUVENILES**

**SECTION 2.(a)** Article 39 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-318.6. Failure to report crimes against juveniles; penalty.**

(a) Definitions. – As used in this section, the following definitions apply:

(1) Crime of abuse. – Any of the following misdemeanor offenses committed against a victim who had not reached age 18:

(1) G.S. 7B-301.

(2) G.S. 14-27.33.

(3) G.S. 14-33(c)(3).

(4) G.S. 14-202.2.

(5) G.S. 14-318.2.

(6) Any attempt, solicitation, or conspiracy to commit any of the offenses listed in this subsection."

(2) Juvenile. – As defined in G.S. 7B-101.

(b) Requirement. – A person or institution who suspects that a juvenile has been the victim of a felony or a crime of abuse shall immediately report the case of that juvenile to the appropriate local law enforcement agency in the county where the juvenile resides or is found. The report may be made orally or by telephone. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, custodian, or caretaker; the age of the juvenile; the names and ages of other juveniles present or in danger; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from the abuse; and any other information which the person making the report believes might be helpful in establishing



the need for law enforcement involvement. The person making the report shall give the person's name, address, and telephone number.

(c) Penalty. – Any person or institution who knew or should have known that a juvenile was the victim of a felony or a crime of abuse, and knowingly or wantonly fails to report as required by subsection (b) of this section, or who knowingly or wantonly prevents another person from reporting as required by subsection (b) of this section, is guilty of a Class 1 misdemeanor.

(d) Construction. – Nothing in this section shall be construed as relieving a person subject to the requirement set forth in subsection (b) of this section from any other duty to report required by law.

(e) Protection. – The identity of a person making a report pursuant to this section must be protected and only revealed as provided in G. S. 132-1.4(c)(4)."

**SECTION 2.(b)** This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

### **PART III. EXPANDING THE STATUTE OF LIMITATIONS FOR MISDEMEANOR CRIMES INVOLVING ABUSE AGAINST CHILDREN**

**SECTION 3.(a)** G.S. 15-1 reads as rewritten:

#### **"§ 15-1. Statute of limitations for misdemeanors.**

The crimes of deceit and malicious mischief, and the crime of petit larceny where the value of the property does not exceed five dollars (\$5.00), and all misdemeanors except any crime of abuse as defined in G. S. 14-318.6 and malicious misdemeanors, shall be charged within two years after the commission of the same, and not afterwards: Provided, that if any pleading shall be defective, so that no judgment can be given thereon, another prosecution may be instituted for the same offense, within one year after the first shall have been abandoned by the State. Crimes of abuse shall be charged within 10 years of the commission of the crime."

**SECTION 3.(b)** This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

### **PART IV. PROTECTING CHILDREN ONLINE FROM HIGH-RISK SEX OFFENDERS**

**SECTION 4.(a)** G.S. 14-202.5 reads as rewritten:

#### **"§ 14-202.5. ~~Ban use of commercial social networking Web sites by sex offenders.~~Ban online conduct by high-risk sex offenders that endangers children.**

(a) Offense. – It is unlawful for a high-risk sex offender ~~who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to access a commercial social networking Web site where the sex offender knows that the site permits minor children to become members or to create or maintain personal Web pages on the commercial social networking Web site.~~ to do any of the following online:

(1) To communicate with a person that the offender believes is under 16 years of age.

(2) To contact a person that the offender believes is under 16 years of age.

(3) To pose falsely as a person under 16 years of age.

(4) To use a website to gather information about a person that the offender believes is under 16 years of age.

(5) To use a commercial social networking website in violation of a policy posted in a manner reasonably likely to come to the attention of users, prohibiting convicted sex offenders from using the site.

(b) Definition of Commercial Social Networking Website. – For the purposes of this section, a "commercial social networking Web site" ~~is an~~ includes any website, application, portal, or other means of accessing the Internet Web site that meets all of the following requirements:

- 1 (1) Is operated by a person who derives revenue from membership fees,  
2 advertising, or other sources related to the operation of the ~~Web site.~~website.  
3 (2) ~~Facilitates the social introduction between two or more persons for the~~  
4 ~~purposes of friendship, meeting other persons, or information exchanges.~~  
5 (3) Allows users to create personal Web pages or ~~personal~~ profiles that contain  
6 ~~information such as the user's name or nickname of the user, nickname,~~  
7 ~~photographs placed on the personal Web page by the user, of the user, and~~  
8 ~~other personal information about the user, and links to other personal Web~~  
9 ~~pages on the commercial social networking Web site of friends or associates~~  
10 ~~of the user that may be accessed by other users or visitors to the Web~~  
11 ~~site.~~information.  
12 (4) Provides users or visitors ~~to the commercial social networking Web site~~  
13 ~~mechanisms a mechanism~~ to communicate with ~~other users, others,~~ such as a  
14 message board, chat room, ~~electronic mail,~~ or instant messenger.  
15 (c) Exclusions from Commercial Social Networking Website Definition. – A commercial  
16 social networking ~~Web site.~~website does not include ~~an Internet Web site.~~a website that  
17 ~~either;~~ meets either of the following requirements:  
18 (1) ~~Provides only one of the following discrete services: photo sharing, electronic~~  
19 ~~mail, instant messenger, or chat room or message board platform; or~~  
20 (2) Has as its primary purpose the facilitation of commercial ~~transactions~~  
21 ~~involving goods or services between its members or visitors.~~transactions, the  
22 dissemination of news, the discussion of political or social issues, or  
23 professional networking.  
24 (3) Is a website owned or operated by a local, State, or federal governmental  
25 entity.  
26 (c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term  
27 "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter  
28 14 of the General Statutes that meets any of the following requirements:  
29 (1) Was found by a court to have been convicted of an aggravated offense, as that  
30 term is defined in G.S. 14-208.6, against a person under 18 years of age.  
31 (2) Was found by a court to be a recidivist, as that term is defined in  
32 G.S. 14-208.6, whose status as a recidivist was based on an offense against a  
33 person under 18 years of age.  
34 (3) Was convicted of an offense against a minor, as that term is defined in  
35 G.S. 14-208.6.  
36 (4) Was convicted of a sexually violent offense, as that term is defined in  
37 G.S. 14-208.6, against a person under 18 years of age.  
38 (5) Was found by a court to be a sexually violent predator, as that term is defined  
39 in G.S. 14-208.6, based on a conviction of a sexually violent offense  
40 committed against a minor.  
41 (d) Jurisdiction. – The offense is committed in the State for purposes of determining  
42 jurisdiction, if the transmission that constitutes the offense either originates in the State or is  
43 received in the State.  
44 (e) Punishment. – A violation of this section is a Class ~~I~~H felony.  
45 (f) Severability. – If any provision of this section or its application is held invalid, the  
46 invalidity does not affect other provisions or applications of this section that can be given effect  
47 without the invalid provisions or application, and to this end the provisions of this section are  
48 severable."  
49 **SECTION 4.(b)** G.S. 14-202.5A reads as rewritten:  
50 **"§ 14-202.5A. Liability of commercial social networking sites.**

(a) A commercial social networking site, as defined in G.S. 14-202.5, that complies with G.S. 14-208.15A or makes other reasonable efforts to prevent a high-risk sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes from accessing its Web site shall not be held civilly liable for damages arising out of a person's communications on the social networking site's system or network regardless of that person's status as a registered sex offender in North Carolina or any other jurisdiction. offender, as defined in G.S. 14-202.5, from using its website to endanger children shall not be held civilly liable for damages arising out of the sex offender's communications on the social networking site's system or network.

(b) For the purposes of this section, "access" is defined as allowing the sex offender to do any of the activities or actions described in G.S. 14-202.5(b)(2) through G.S. 14-202.5(b)(4) by utilizing the Web site."

**SECTION 4.(c)** G.S. 14-208.7(b) reads as rewritten:

"(b) The Department of Public Safety shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall require all of the following:

...

(8) For a high-risk sex offender, as defined in G.S. 14-202.5, all Internet protocol (IP) addresses in the person's residence, registered in the person's name, accessible at the person's place of employment, or otherwise under the person's control or custody."

**SECTION 4.(d)** G.S. 14-208.11(a) reads as rewritten:

"(a) A person required by this Article to register who willfully does any of the following is guilty of a Class F felony:

...

(11) Fails to provide the registering sheriff with the information, or any changes to the information, required under G.S. 14-208.7(b)(8)."

**SECTION 4.(e)** Subsection (c) of this section becomes effective December 1, 2019, and applies to persons whose initial registration under Article 27A of Chapter 14 of the General Statutes occurs on or after that date, and to persons who are registered under Article 27A of Chapter 14 of the General Statutes prior to that date and continue to be registered on that date. However, any person registered under Article 27A of Chapter 14 of the General Statutes prior to December 1, 2019, and continuing to be registered on December 1, 2019, shall not be in violation of the requirement set forth in G.S. 14-208.7(b)(8) if the person provides the required information at the first verification of information required under G.S. 14-208.9A that occurs on or after December 1, 2019. Subsections (a) and (d) of this section become effective December 1, 2019, and applies to offenses committed on or after that date. The remainder of this section becomes effective December 1, 2019.

## **PART V. EXPANDING THE LIST OF CRIMES FOR WHICH AN INVESTIGATIVE GRAND JURY CAN BE CONVENED**

**SECTION 5.(a)** G.S. 15A-622 reads as rewritten:

**"§ 15A-622. Formation and organization of grand juries; other preliminary matters.**

...

(h) A written petition for convening of grand jury under this section may be filed by the district attorney, the district attorney's designated assistant, or a special prosecutor requested pursuant to G.S. 114-11.6, with the approval of a committee of at least three members of the North Carolina Conference of District Attorneys, and with the concurrence of the Attorney General, with the Clerk of the North Carolina Supreme Court. The Chief Justice shall appoint a panel of three judges to determine whether to order the grand jury convened. A grand jury under this section may be convened if the three-judge panel determines ~~that~~that both of the following requirements are met:

- (1) The petition alleges the commission of or a conspiracy to commit a violation of G.S. 90-95(h) or G.S. 90-95.1, any part of which violation or conspiracy occurred in the county where the grand jury sits, and that persons named in the petition have knowledge related to the identity of the perpetrators of those crimes but will not divulge that knowledge voluntarily or that such persons request that they be allowed to testify before the grand jury; and jury.
- (2) The affidavit sets forth facts that establish probable cause to believe that the crimes specified in the petition have been committed and reasonable grounds to suspect that the persons named in the petition have knowledge related to the identity of the perpetrators of those crimes.

The affidavit shall be based upon personal knowledge or, if the source of the information and basis for the belief are stated, upon information and belief. The panel's order convening the grand jury as an investigative grand jury shall direct the grand jury to investigate the crimes and persons named in the petition, and shall be filed with the Clerk of the North Carolina Supreme Court. A grand jury so convened retains all powers, duties, and responsibilities of a grand jury under this Article. The contents of the petition and the affidavit shall not be disclosed. Upon receiving a petition under this subsection, the Chief Justice shall appoint a panel to determine whether the grand jury should be convened as an investigative grand jury.

A grand jury authorized by this subsection may be convened from an existing grand jury or grand juries authorized by subsection (b) of this section or may be convened as an additional grand jury to an existing grand jury or grand juries. Notwithstanding subsection (b) of this section, grand jurors impaneled pursuant to this subsection shall serve for a period of 12 months, and, if an additional grand jury is convened, 18 persons shall be selected to constitute that grand jury. At any time for cause shown, the presiding superior court judge may excuse a juror temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

(i) An investigative grand jury may be convened pursuant to subsection (h) of this section if the petition alleges the commission of, attempt to commit or solicitation to commit, or a conspiracy to commit a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), ~~or G.S. 14-43.13 (sexual servitude)~~, (sexual servitude), any felony sex offense against a person under 18 years of age, or a crime of abuse as defined in G.S. 14-318.6.

...."

**SECTION 5.(b)** This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

## **PART VI. INVESTIGATIVE GRAND JURY/STATUTORY PROCEDURE TO SUBPOENA RECORDS**

**SECTION 6.(a)** G.S. 15A-623(h) reads as rewritten:

"(h) If a grand jury is convened pursuant to G.S. 15A-622(h), notwithstanding subsection (d) of this section, a prosecutor shall be present to examine witnesses, and a court reporter shall be present and record the examination of witnesses. The record shall be transcribed. If the prosecutor determines that it is necessary to compel testimony from the witness, he may grant use immunity to the witness. The grant of use immunity shall be given to the witness in writing by the prosecutor and shall be signed by the prosecutor. The written grant of use immunity shall also be read into the record by the prosecutor and shall include an explanation of use immunity as provided in G.S. 15A-1051. A witness shall have the right to leave the grand jury room to consult with his counsel at reasonable intervals and for a reasonable period of time upon the request of the witness. Notwithstanding subsection (e) of this section, the record of the examination of witnesses shall be made available to the examining prosecutor, and he may disclose contents of the record to other investigative or law-enforcement officers, the witness or his attorney to the extent that the disclosure is appropriate to the proper performance of his

official duties. The record of the examination of a witness may be used in a trial to the extent that it is relevant and otherwise admissible. Further disclosure of grand jury proceedings convened pursuant to this act may be made upon written order of a superior court judge if the judge determines disclosure is essential:

- (1) To prosecute a witness who appeared before the grand jury for contempt or perjury; or
- (2) To protect a defendant's constitutional rights or statutory rights to discovery pursuant to G.S. 15A-903.

Upon the convening of the investigative grand jury pursuant to approval by the three-judge panel, the district attorney shall subpoena the witnesses. The subpoena shall be served by the investigative grand jury officer, who shall be appointed by the court. The name of the person subpoenaed and the issuance and service of the subpoena shall not be disclosed, except that a witness so subpoenaed may divulge that information. The district attorney may issue a subpoena duces tecum to compel a witness or other entity to produce any books, papers, documents, data, or other objects the subpoena designates that relate to the investigation, and the subpoena duces tecum shall be served by the investigative grand jury officer appointed by the court. The court may direct the witness to produce the designated items before the designated items are to be offered to the investigative grand jury. Any information, records, or data reported or obtained pursuant to a subpoena duces tecum authorized under this subsection shall be confidential and shall not be disclosed unless in connection with a criminal case related to the subpoenaed materials. Upon a motion made promptly, the court may quash or modify the subpoena duces tecum if the court determines that compliance with the subpoena would be unreasonable or oppressive. After an indictment, information, or other pleading is filed, a subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order. Before entering the order, and unless the court determines there are exceptional circumstances, the court must require giving notice to the victim so that the victim can move to quash the subpoena or otherwise object. The presiding superior court judge shall hear any matter concerning the investigative grand jury in camera to the extent necessary to prevent disclosure of its existence. The court reporter for the investigative grand jury shall be present and record and transcribe the in camera proceeding. The transcription of any in camera proceeding and a copy of all subpoenas and other process shall be returned to the Chief Justice or to such member of the three-judge panel as the Chief Justice may designate, to be filed with the Clerk of the North Carolina Supreme Court. If a person who, without adequate excuse, disobeys a subpoena issued under the authority set forth in this subsection, the presiding superior court judge may proceed in accordance with Chapter 5A of the General Statutes. The subpoena to compel the attendance of a witness shall otherwise be subject to the provisions of G.S. 15A-801 and Article 43 of Chapter 15A. The subpoena duces tecum shall otherwise be subject to the provisions of G.S. 15A-802. When an investigative grand jury has completed its investigation of the crimes alleged in the petition, the investigative functions of the grand jury shall be dissolved and such investigation shall cease. The District Attorney shall file a notice of dissolution of the investigative functions of the grand jury with the Clerk of the North Carolina Supreme Court."

**SECTION 6.(b)** This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

## **PART VII. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE**

**SECTION 7.(a)** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

1           **SECTION 7.(b)** Prosecutions for offenses committed before the effective date of  
2 this act are not abated or affected by this act, and the statutes that would be applicable but for  
3 this act remain applicable to those prosecutions.

4           **SECTION 7.(c)** Except as otherwise provided, this act is effective when it becomes  
5 law.